

**R307. Environmental Quality, Air Quality.****R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).****R307-405-1. Purpose.**

This rule implements the federal Prevention of Significant Deterioration (PSD) permitting program for major sources and major modifications in attainment areas and maintenance areas as required by 40 CFR 51.166. This rule does not include the routine maintenance, repair and replacement provisions that were ~~stayed~~vacated by the DC Circuit Court of Appeals on ~~December 23, 2003, pending appeal~~March 17, 2006. This rule does not include the clean unit and pollution control project provisions that were vacated by the DC Circuit Court of Appeals on June 24, 2005. This rule supplements, but does not replace, the permitting requirements of R307-401.

**R307-405-2. Applicability.**

(1) Except as provided in (2), the provisions of 40 CFR 52.21(a)(2), effective ~~March 3, 2003~~July 1, 2006, are hereby incorporated by reference.

(2) The following provisions that apply to clean units and pollution control projects are not incorporated because these provisions were vacated by the DC Court of Appeals on June 24, 2005:

(a) ~~[The provisions in ] 40 CFR 52.21(a)(2)(iv)(e), [are not incorporated by reference.]~~

(b) ~~[T]he last sentence in 40 CFR 52.21(a)(2)(iv)(f), and [is not incorporated by reference.]~~

(c) ~~[The provisions in ] 40 CFR 52.21(a)(2)(vi) [are not incorporated by reference].~~

(3) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in R307-401-5 through 8.

**R307-405-3. Definitions.**

(1) Except as provided in (2) below, the definitions contained in 40 CFR 52.21(b), effective ~~March 3, 2003~~July 1, 2006, are hereby incorporated by reference.

(2) ~~["Air Quality Related Values," as used in analyses under 40 CFR 52.21(p) that is incorporated by reference in R307-405-17, means those special attributes of a Class I area, assigned by a federal land manager, that are adversely affected by air quality.~~

~~(3)~~ (a)(i) "Major Source Baseline Date" means:

(A) in the case of particulate matter:

(I) for Davis, Salt Lake, Utah and Weber Counties, the date that EPA approves the PM10 maintenance plan that was adopted by the Board on July 6, 2005;

(II) for all other areas of the State, January 6, 1975;

(B) in the case of sulfur dioxide:

(I) for Salt Lake County, the date that EPA approves the sulfur dioxide maintenance plan that was adopted by the Board on January 5, 2005;

(II) for all other areas of the State, January 6, 1975; and

(C) in the case of nitrogen dioxide, February 8, 1988.

(ii) "Minor Source Baseline Date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or R307-405 submits a complete application under the relevant regulations. The trigger date is:

(A) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(B) in the case of nitrogen dioxide, February 8, 1988.

(iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(A) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or R307-405; and

(B) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(iv) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM10 increments, except that the executive secretary shall rescind a minor source baseline date where it can be shown, to the satisfaction of the executive secretary, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM10 emissions.

(b) In the definition of "baseline area" in 40 CFR 52.21(b)(15)(ii)(b) insert the words "or R307-405" after "Is subject to 40 CFR 52.21".

(c) "Reviewing Authority" means the executive secretary.

(d)(i) The term "Administrator" shall be changed to "executive secretary" throughout R307-405, except as provided in (ii).

(ii) The term "Administrator" shall be changed to "EPA Administrator" in the following incorporated sections:

- (A) 40 CFR 52.21(b)(17),
- (B) 40 CFR 52.21(b)(37)(i),
- (C) 40 CFR 52.21(b)(43),
- (D) 40 CFR 52.21(b)(48)(ii)(c),
- (E) 40 CFR 52.21(b)(50)(i),
- (F) 40 CFR 52.21(l)(2),
- (G) 40 CFR 52.21(p)(2), and
- (H) 40 CFR 51.166(q)(2)(iv).

(e) ~~[The definition of "emissions unit" in 40 CFR 52.21(b)(7), effective January 6, 2004, is hereby incorporated by reference.~~

~~(f) The definition of "replacement unit" in 40 CFR 52.21(b)(33), effective January 6, 2004, is hereby incorporated by reference.~~

1 ~~\_\_\_\_\_ (g)~~ The following ~~[paragraphs]~~ definitions or portions of  
2 definitions that ~~[refer]~~ apply to clean units and pollution control  
3 projects are not incorporated ~~[by reference]~~ because these  
4 provisions were vacated by the DC Court of Appeals on June 24,  
5 2005:

- 6 (i) in the definition of "major modification" in 40 CFR  
7 52.21(b)(2), subparagraph (iii)(h),
- 8 (ii) in the definition of "net emissions increase" in 40 CFR  
9 52.21(b)(3), subparagraph (iii)(b),
- 10 (iii) in the definition of "net emissions increase" in 40  
11 CFR 52.21(b)(3), subparagraph (vi)(d),
- 12 (iv) the definition of "pollution control project" in 40 CFR  
13 52.21(b)(32), and
- 14 (v) the definition of "clean unit" in 40 CFR 52.21(b)(42).

15 (f) The following definitions or portions of definitions  
16 that apply to the equipment repair and replacement provisions are  
17 not incorporated because these provisions were vacated by the DC  
18 Circuit Court of Appeals on March 17, 2006:

- 19 (i) in the definition major modification in 40 CFR  
20 52.21(b)(2), the second sentence in subparagraph (iii)(a),
- 21 (ii) the definition of "process unit" in 40 CFR  
22 52.21(b)(55),
- 23 (iii) the definition of "functionally equivalent component"  
24 in 40 CFR 52.21(b)(56),
- 25 (iv) the definition of "fixed capital cost" in 40 CFR 52.21  
26 (b)(57), and
- 27 (v) the definition of "total capital investment" in 40 CFR  
28 52.21(b)(58).

29 (3) "Air Quality Related Values," as used in analyses under  
30 40 CFR 52.21 (p) that is incorporated by reference in R307-405-17,  
31 means those special attributes of a Class I area, assigned by a  
32 federal land manager, that are adversely affected by air quality.

33 (4) "Heat input" means heat input as defined in 40 CFR  
34 52.01(g).

35 (5) "Title V permit" means any permit or group of permits  
36 covering a Part 70 source that is issued, renewed, amended, or  
37 revised pursuant to R307-415.

38 (6) "Title V Operating Permit Program" means R307-415.

39 (7) The definition of "Good Engineering Practice (GEP) Stack  
40 Height" as defined in R307-410 shall apply in this rule.

41 (8) The definition of "Dispersion Technique" as defined in  
42 R307-410 shall apply in this rule.

#### 43 44 **R307-405-4. Area Designations.**

45 (1) Pursuant to section 162(a) of the federal Clean Air Act,  
46 the following areas are designated as mandatory Class I areas:

- 47 (a) Arches National Park,
- 48 (b) Bryce Canyon National Park,
- 49 (c) Canyonlands National Park,
- 50 (d) Capitol Reef National Park, and
- 51 (e) Zion National Park.

52 (2) Pursuant to section 162(b) of the federal Clean Air Act,  
53 all other areas in Utah are designated as Class II unless

1 designated as nonattainment areas.

2 (3) No areas in Utah are designated as Class III.

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4 **R307-405-5. Area Redesignation.**

5 Any person may petition the Board to change the  
6 classification of an area designated under R307-405-4, except for  
7 mandatory Class I areas designated under R307-405-4(1).

8 (1) The petition shall contain a discussion of the reasons  
9 for the proposed redesignation, including a satisfactory  
10 description and analysis of the health, environmental, economic  
11 and social and energy effects of the proposed redesignation.

12 (2) The petition shall contain a demonstration that the  
13 proposed redesignation meets the criteria outlined in Section VIII  
14 of the State Implementation Plan and 40 CFR 51.166(e) and (g)  
15 effective July 1, 2006 that is hereby incorporated by reference.

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17 **R307-405-6. Ambient Air Increments.**

18 The provisions of 40 CFR 52.21(c), effective [~~March 3,~~  
19 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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21 **R307-405-7. Ambient Air Ceilings.**

22 The provisions of 40 CFR 52.21(d), effective [~~March 3,~~  
23 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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25 **R307-405-8. Exclusions from Increment Consumption.**

26 (1) The following concentrations shall be excluded in  
27 determining compliance with a maximum allowable increase:

28 (a) concentrations attributable to the increase in emissions  
29 from stationary sources which have converted from the use of  
30 petroleum products, natural gas, or both by reason of an order in  
31 effect under section 2(a) and (b) of the Energy Supply and  
32 Environmental Coordination Act of 1974 (or any superseding  
33 legislation) over the emissions from such sources before the  
34 effective date of such an order;

35 (b) concentrations attributable to the increase in emissions  
36 from sources which have converted from using natural gas by reason  
37 of a natural gas curtailment plan in effect pursuant to the  
38 Federal Power Act over the emissions from such sources before the  
39 effective date of such plan;

40 (c) concentrations of particulate matter attributable to the  
41 increase in emissions from construction or other temporary  
42 emission-related activities of new or modified sources;

43 (d) the increase in concentrations attributable to new  
44 sources outside the United States over the concentrations  
45 attributable to existing sources which are included in the  
46 baseline concentration; and

47 (e) concentrations attributable to the temporary increase in  
48 emissions of sulfur dioxide, particulate matter, or nitrogen  
49 dioxides from stationary sources which are affected by plan  
50 revisions approved by the EPA Administrator as meeting the  
51 criteria specified in 40 CFR 51.166(f)(4). The temporary increase  
52 shall not exceed 2 years in duration unless a longer time is  
53 approved by the EPA Administrator. This exclusion is not

1 renewable.

2 (2) No exclusion of concentration under (1)(a) or (b) above  
3 shall apply more than five years after the effective date of the  
4 order to which paragraph (1)(a) refers or the plan to which  
5 paragraph (1)(b) refers, whichever is applicable. If both such  
6 order and plan are applicable, no such exclusion shall apply more  
7 than five years after the later of such effective dates.

8 (3) No exclusion under (1)(e) shall apply to an emission  
9 increase from a stationary source which would:

10 (a) impact a Class I area or an area where an applicable  
11 increment is known to be violated; or

12 (b) cause or contribute to a violation of the national  
13 ambient air quality standards.

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15 **R307-405-9. Stack Heights.**

16 The provisions of 40 CFR 52.21(h), effective [~~March 3,~~  
17 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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19 **R307-405-10. Exemptions.**

20 (1) The provisions of 40 CFR 52.21(i)(1)(vi) through (viii),  
21 effective [~~March 3, 2003~~]July 1, 2006, are hereby incorporated by  
22 reference.

23 (2) The provisions of 40 CFR 52.21(i)(2) through (5),  
24 effective [~~March 3, 2003~~]July 1, 2006, are hereby incorporated by  
25 reference.

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27 **R307-405-11 Control Technology Review.**

28 The provisions of 40 CFR 52.21(j), effective [~~March 3,~~  
29 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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31 **R307-405-12. Source Impact Analysis.**

32 The provisions of 40 CFR 52.21(k), effective [~~March 3,~~  
33 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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35 **R307-405-13. Air Quality Models.**

36 The provisions of 40 CFR 52.21(l), effective [~~March 3,~~  
37 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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39 **R307-405-14. Air Quality Analysis.**

40 (1) The provisions of 40 CFR 52.21(m)(1)(i) through (iv),  
41 (vi), and (viii), effective [~~March 3, 2003~~]July 1, 2006, are  
42 hereby incorporated by reference.

43 (2) The provisions of 40 CFR 52.21(m)(2) and (3), effective  
44 [~~March 3, 2003~~]July 1, 2006, are hereby incorporated by reference.

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46 **R307-405-15. Source Information.**

47 The provisions of 40 CFR 52.21(n), effective [~~March 3,~~  
48 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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50 **R307-405-16. Additional Impact Analysis.**

51 The provisions of 40 CFR 52.21(o), effective [~~March 3,~~  
52 ~~2003~~]July 1, 2006, are hereby incorporated by reference.

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**R307-405-17. Sources Impacting Federal Class I Areas: Additional Requirements.**

(1) The provisions of 40 CFR 52.21(p), effective ~~[March 3, 2003]~~ July 1, 2006, are hereby incorporated by reference.

(2) The executive secretary will transmit to the EPA Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the EPA Administrator of every action related to the consideration of such permit.

**R307-405-18. Public Participation.**

(1) Except as provided in (2), the provisions of 40 CFR 51.166(q)(1) and (2), effective ~~[March 3, 2003]~~ July 1, 2006, are hereby incorporated by reference.

(2) The phrase "within a specified time period" in 40 CFR 51.166(q)(1) shall be replaced with the phrase "within 30 days of receipt of the PSD permit application".

**R307-405-19. Source Obligation.**

(1) Except as provided in (2) below, the provisions of 40 CFR 52.21(r), effective ~~[March 3, 2003]~~ July 1, 2006, are hereby incorporated by reference.

(2) The parenthetical phrase in the first sentence in 40 CFR 52.21(r)(6) shall be changed to read "(other than projects at a source with a PAL)".

**R307-405-20. Innovative Control Technology.**

(1) Except as provided in (2), the provisions of 40 CFR 52.21(v), effective ~~[March 3, 2003]~~ July 1, 2006, are hereby incorporated by reference.

(2)(a) The reference to "40 CFR 124.10" in 40 CFR 52.21(v)(1) shall be changed to "R307-405-18".

(b) 40 CFR 52.21(v)(2) shall be changed to read "The executive secretary shall, with the consent of the governors of other affected states, determine that the source or modification may employ a system of innovative control technology, if:".

**R307-405-21. Actuals PALs.**

(1) Except as provided in ~~[(3)]~~ (2), the provisions of 40 CFR 52.21(aa) ~~[(1) through (5) and (7) through (15)]~~, effective ~~[March 3, 2003]~~ July 1, 2006, are hereby incorporated by reference.

(2) ~~[The provisions of 40 CFR 52.21(aa)(6), effective January 6, 2004, are hereby incorporated by reference.~~

~~[(3)]~~ (a) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(4)(ii) shall be changed to "R307-403".

(b) The reference to "51.165(a)(3)(ii) of this chapter" in 40 CFR 52.21(aa)(8)(ii)(2) shall be changed to "R307-403".

(c) The references to "70.6(a)(3)(iii)(B) of this chapter" in 40 CFR 52.21(aa)(14)(ii) shall be changed to "R307-415-6a(3)(c)(ii)".

(d) The date of "March 3, 2003" in 40 CFR 52.21(aa)(15)(i) and (ii) shall be changed to ~~["the effective date of this rule"]~~ "June 16, 2006".

**R307-405-22. Banking of Emission Offset Credit in PSD Areas.**

Banking of emission offset credits in PSD areas will be permitted. To preserve banked emission reductions the executive secretary must identify them in either the Utah SIP or an order. The executive secretary will provide a registry to identify the person, private entity, or government authority that has the right to use or allocate the banked emission reduction and to record any transfer of or lien on these rights.

**KEY: air pollution, PSD, Class I area**

**Date of Enactment or Last Substantive Amendment: [~~June 16, 2006~~]2007**

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